

RESIDENTIAL CHILD-CARE RULES – 10A NCAC 70I EFFECTIVE OCTOBER 1, 2008

This document addresses the changes in 70I rules effective October 1, 2008. A brief description of the new/changed rule is under each section and the current rule is below the description. The description of the new/changed rule is in *italics*. Rules that became effective October 1, 2008 are highlighted in yellow throughout this document.

SECTION .0100 GENERAL LICENSING REQUIREMENTS

No major changes to this section. However, changes were made effective 9/1/07 including licenses being issues for two years and elimination of the 90 day grace period. Sections .0101(b)(3) and (d)(3)(4) were also added effective 9/1/07. Rules that became effective in 9/1/07 are highlighted in green throughout this document.

10A NCAC 70I .0101 LICENSING ACTIONS

(a) All rules in 10A NCAC 70I apply to residential child-care facilities.

(b) License.

(1) The Department of Health and Human Services, Division of Social Services (licensing authority) shall issue a license when it determines that a residential child-care facility is in compliance with rules in Subchapters 70I and 70J of this Chapter.

(2) A license shall be issued for a maximum period of two years.

(3) A residential child-care facility shall not be licensed under both G.S. 131D and G.S. 122C.

(c) Changes in any information on the license.

(1) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70I and 70J.

(2) A residential child-care facility shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70I and 70J of this Chapter.

(d) Termination.

(1) When a residential child-care facility voluntarily discontinues child-caring operations, either temporarily or permanently, the residential child-care facility shall notify the licensing authority in writing of the date, reason and anticipated length of closing.

(2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.

(3) If a license issued pursuant to this Subchapter is terminated for more than 60 days, the facility shall meet all requirements for a new facility before being relicensed.

(4) Any existing licensed residential child-care facility that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.

(e) Adverse Licensure Action.

(1) The licensing authority shall deny, suspend or revoke a license when a residential child-care facility is not in compliance with the rules in Subchapters 70I and 70J unless the residential child-care facility, within 10 working days from the date the residential child-care facility initially received the deficiency report from the licensing authority, submits a plan of correction. The plan of correction shall specify the following:

(A) the measures that will be put in place to correct the deficiency;

(B) the systems that will be put in place to prevent a re-occurrence of the deficiency;

(C) the individual or individuals who will monitor the corrective action; and

(D) the date the deficiency will be corrected which shall be no later than 60 days from the date the routine monitoring was concluded.

(2) The licensing authority shall notify a residential child-care facility in writing of the decision to deny, suspend or revoke a license.

(3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.

(f) Licensure Restriction.

(1) An applicant who meets any of the following conditions shall have his/her licensure denied:

(A) owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C;

(B) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S.

122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license;

- (C) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 that is owned by the applicant;
 - (D) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, and G.S. 110, Article 7 and the rules adopted under these laws;
 - (E) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E 256; or
 - (F) the applicant is an individual who has been placed on the Responsible Individuals List as defined in 10A NCAC 70A .0102.
- (2) The denial of licensure pursuant to this Paragraph shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h). A copy of these statutes may be obtained through the internet at <http://www.ncleg.net/Statutes/Statutes.html>.
 - (3) The facility or agency shall inform the licensing authority of any current licenses or licenses held in the past five years for residential child-care facilities, child-placing agencies or maternity homes in other states. The agency shall provide written notification from the licensing authority in other states regarding violations, penalties or probationary status imposed in that state. The licensing authority shall take this information into consideration when granting a North Carolina license.

10A NCAC 70I .0102 LICENSING PROCESS

- (a) The license process for a residential child-care facility shall consist of an application phase, an investigatory phase and a decision making phase.
- (b) Application Phase. An applicant shall apply for a license to operate a residential child-care facility to the licensing authority prior to the first child being accepted for full-time care. An applicant shall apply for renewal of a license to operate a residential child-care facility to the licensing authority prior to the expiration of the current license.
- (c) Investigatory Phase. During the investigatory phase, the applicant shall submit to the licensing authority information on the proposed program and projected methods of operation. For proposed private and public residential child-care facilities, the licensing authority staff, together with those seeking licensure, shall complete the investigatory phase
- (d) Decision Regarding Licensure. An applicant shall submit all the materials required by Subchapters 70I and 70J, to the licensing authority prior to the decision to issue a license to operate.

SECTION .0200 MINIMUM LICENSURE STANDARDS

.0201 - Definitions

The terms case plan, individualized service plan, family time and visiting resource were eliminated from the definitions. Note that throughout the new rules you will see the terms parent, guardian, or legal custodian to define the parental relationship. It is important to understand that these are separate and distinct roles. An individual or an agency does not serve in the capacity of all three of these. Parent means the birth or adoptive parent of a child. Guardian means someone granted guardianship by a court. This is usually a relative or someone who has a relationship with a child (it is usually not a county dss). Legal custodian means an individual or an agency granted legal custody of a child by a court (in most instances county dss' serve as legal custodians). (10)(11)(12)(19)(20) are new. The definition of child-caring institution in (1) changed from for 10 to for 13 children, and group home in (8) changed from no more than 9 to no more than 12 children.

10A NCAC 70I .0201 DEFINITIONS

In addition to the definitions found in G.S. 131D-10.2, the following definitions apply to the rules in Subchapters 70I and 70J of this Chapter.

- (1) "Child-caring institution" means a residential child-care facility utilizing permanent buildings located on one site for **13 or more** foster children.

- (2) "Children's foster care camp" means a residential child-care facility that provides foster care at either a permanent camp site or in a wilderness setting.
- (3) "Direct service personnel" means staff responsible for the direct services provided to children and their families including child-care workers, residential counselors, house/teaching parents, social workers, recreation and education staff.
- (4) "Emergency shelter care" means 24 hour care provided in a residential child-care facility for a period not to exceed 90 days, in accordance with 10A NCAC 70J .0200.
- (5) "Executive director" means the person who is in charge of the agency and who is responsible for developing and supervising the program of residential child-care and services.
- (6) "Foster child" means an individual less than 18 years of age who has not been emancipated under North Carolina law, or one who is 18 to 21 years of age and continues to reside in a residential child-care facility, who is dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined, delinquent, or otherwise in need of care away from home and not held in detention.
- (7) "Full license" means a license issued for two years when all licensing requirements are met.
- (8) "Group home" means a residential child-care facility operated either under public or private auspices that receives for 24-hour care **no more than 12 children**. This number includes the caregivers' own children and other relative children residing in the home under the age of 18. The composition of the group shall include no more than two children under the age of two, four children under the age of six, and six children under the age of 12. A group home shall not provide day care, nor shall it be available to adults in the community who wish to rent rooms.
- (9) "License" means permission granted in writing to a corporation, agency or county government by the licensing authority to engage in the provision of full-time residential child-care or child-placing activities based upon an initial determination, and biennially thereafter, that such corporation, agency, or a county government has met and complied with standards set forth in this Subchapter.
- (10) **"Licensing authority" means the North Carolina Department of Health and Human Services, Division of Social Services.**
- (11) **"Licensed medical provider" means a physician, physician's assistant or certified nurse practitioner.**
- (12) **"Out-of-home family services agreement" means a document developed with the child's custodian that identifies a child's permanency plan (return to parents, placement with relatives, guardianship, and adoption). The out-of-home family services agreement describes a child's needs, goals and objectives in a residential child-care facility and the tasks and assignments of the staff of the residential child-care facility to meet a child's and family's needs, goals and objectives. The out-of-home family services agreement specify what must change in order for the parents to meet the needs of the child. Basic goal planning steps include:**
 - (a) **involving the family in the process;**
 - (b) **identifying goals that are both realistic and achievable;**
 - (c) **using family strengths when outlining objectives and activities to attain the goals;**
 - (d) **spelling out the steps necessary for success;**
 - (e) **documenting who will do what and when they will do it; and**
 - (f) **providing for review.**
- (13) "Owner" means any individual who is a sole proprietor, co-owner, partner or shareholder holding an ownership or controlling interest of five percent or more of the applicant entity. Owner includes a "principal" or "affiliate" of the residential child-care facility.
- (14) "Private agency residential child-care facility" means a residential child-care facility under the auspices of a licensed child-placing agency or another private residential child-care facility.
- (15) "Private residential child-care facility" means a residential child-care facility under the control, management and supervision of a private non-profit or for-profit corporation, sole proprietorship or partnership that operates independently of a licensed child-placing agency or any other residential child-care facility.
- (16) "Provisional license" means a license issued for a maximum of six months enabling a facility to operate while some below standard component of the program is being

corrected. A provisional license for the same below standard program component shall not be renewed.

- (17) "Public agency residential child-care facility" means a residential child-care facility under the control, management or supervision of a county department of social services.
- (18) "Public residential child-care facility" means a residential child-care facility under the control, management or supervision of a county government other than a county department of social services.
- (19) "Staff" means full-time, part-time and contracted staff persons.
- (20) "Visitation and contact plan" means a specific document that is developed by the child's custodian for each child that specifies whom the child may visit with and have contact with and the circumstances under which the visits and contacts shall take place.
- (21) "Volunteer" means a person working in a staff position for an agency who is not paid.

.0202 – Responsibility To Licensing Authority

(d) is new. Note that this applies only to policies / procedures that relate to Administrative Rules. Rules previously found in 10A NCAC 70I .0202 related to reports alleging abuse or neglect are now found in 10A NCAC 70I .0614.

10A NCAC 70I .0202 RESPONSIBILITY TO LICENSING AUTHORITY

- (a) A residential child-care facility shall biennially submit to the licensing authority the information and materials required by rules in Subchapters 70I and 70J of this Chapter to document compliance and to support issuance of a license.
- (b) A residential child-care facility shall submit to the licensing authority a biennial statistical report of program activities.
- (c) A residential child-care facility shall provide written notification to the licensing authority of a change in the executive director.
- (d) A residential child-care facility shall provide written notification to the licensing authority of any changes in policies and procedures to assure that the changes are in compliance with the rules in Subchapters 70I and 70J of this Chapter. The residential child-care facility shall receive written approval from the licensing authority before instituting any changes in policies and procedures.
- (e) The office of a residential child-care facility shall be maintained in North Carolina. The licensee shall carry out activities under the North Carolina license from this office.
- (f) The current license of a residential child-care facility shall be posted at all times in a conspicuous place within the facility.
- (g) When there is a death of a child who is a resident of a residential child-care facility, the executive director or his or her designee shall immediately notify the licensing authority in accordance with Rule.0614 of this Subchapter.
- (h) The agency shall provide to the licensing authority at the time of license application the legal name and social security number of each individual who is an owner.
- (i) The agency shall provide to the licensing authority written notification of a change in the legal name of any owner and individuals holding an interest of at least five percent within 30 days following the changes.
- (j) A residential child-care facility shall notify the local management entity where services are being provided within 24 hours of placement that a child may require mental health, developmental disabilities or substance abuse services.
- (k) If a residential child-care facility is monitored by a local management entity the residential child-care facility shall provide data to the local management entity as required by Department of Health and Human Services, pursuant to 10A NCAC 27G .0608, for monitoring and reporting to the General Assembly.

.0203 – Substantiations Of Neglect Against The Facility

No changes.

10A NCAC 70I .0203 SUBSTANTIATIONS OF NEGLECT AGAINST THE FACILITY

- (a) When there is a substantiation of neglect against a residential child-care facility by a county department of social services, a corrective action plan shall be submitted by the executive director or his/her designee to the licensing authority within 30 days of the case decision by the county department of social services conducting the investigative assessment.
- (b) Following the receipt of the corrective action plan, the licensing authority shall make one unannounced on-site visit to the facility within the 30 days following the receipt of the corrective action plan.
- (c) The licensing authority shall make subsequent onsite visits at varying frequencies and times throughout the ensuing year to determine that the corrective actions have been implemented.

.0204 – Licensure Procedures

For new licenses, (a)(2)(N) and (b)(1)(L) are new in rule but you have always had to have approval from local zoning. Section (c)(2)(J) clarifies audit submission requirements and (c)(3) notes that the licensing authority may conduct announced and unannounced visits to facilities. Changes regarding medical examinations for staff and their children residing in the facility are found in section (a)(b)(c). Medical examinations must be completed within 12 months instead of 6 months prior to assuming the position, and biennially thereafter. TB tests for staff are only required prior to assuming the position and as determined by their physician thereafter. Birth children of staff will need TB tests only if one or more of the parent's test positive. Adopted or relative children of staff will need TB tests prior to residing in the facility. Medical history form will need to be completed on staff and children prior to residing in the facility.

10A NCAC 70I .0204 LICENSURE PROCEDURES

(a) Private Residential Child-Care Facility Licensure Procedures:

- (1) A private residential child-care facility shall submit the following materials to the licensing authority during the application phase:
 - (A) Articles of Incorporation;
 - (B) Bylaws; and
 - (C) Governing Board list with names, addresses, occupations, length of time and terms on the board, and board positions held and number of terms, if applicable.
- (2) A private residential child-care facility shall submit the following materials to the licensing authority during the investigatory phase before an initial license may be issued, with the exception of Part (K) of this Subparagraph which shall be maintained at the facility for review:
 - (A) License Application and Summary;
 - (B) Program policies and procedures stating the purpose, outlining admission criteria, as well as defining areas of responsibilities for services which the facility will assume for children in care and for services to be provided by the referring agency or individual, and discharge criteria;
 - (C) Description of the child-care program and evaluation method;
 - (D) Program forms;
 - (E) Budget outlining anticipated costs and sources of revenue for the first year of operation;
 - (F) Personnel policies;
 - (G) Organizational chart;
 - (H) Job descriptions;
 - (I) Staff resumes;
 - (J) Full and part-time staff work schedules;
 - (K) A medical examination report completed by a licensed medical provider on all full-time and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff), and any children or relative children of direct care personnel residing in the facility within 12 months prior to the license date. There shall be documentation that all adult direct care personnel residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. The birth children of direct care personnel who reside in the facility shall be tested for TB only if one or more of the parents tests positive for TB. There shall be documentation that adopted children or other relative children residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. A medical history form (DSS-5017) shall be completed by all direct care personnel residing in the facility at the time of initial licensure. A medical examination report, TB test (if required) and a medical history form (DSS-5017) shall be completed on any children or relative children of direct care personnel who subsequently begin residing in the facility;
 - (L) Fire and Building Safety Inspection Report completed and approved by the local fire inspector;
 - (M) Inspection Form for Residential Care Facilities, completed and approved by the county sanitarian;

- (N) Written approval from the local zoning authority; and
 - (O) Written approval from the Division of Health Service Regulation.
 - (3) The licensing authority shall make one or more visits to the residential child-care facility to complete the licensing study.
 - (4) Based on information obtained during the investigatory phase, licensing authority staff shall evaluate the residential child-care facility's proposed program and methods of operation to determine compliance with rules in Subchapters 70I and 70J of this Chapter.
 - (5) The licensing authority shall notify the residential child-care facility in writing of the licensure decision, conditions of the license and any recommendations regarding the child-care program.
- (b) Licensure Procedures for Private Agency, Public Agency and Public Residential Child-Care Facilities.
- (1) A private agency, public agency and public residential child-care facility shall submit the following materials to the licensing authority before a license may be issued, with the exception of Part (I) of this Subparagraph which shall be maintained at the facility for review:
 - (A) License Application and Summary;
 - (B) Program policies and procedures stating purpose, outlining admission criteria, as well as defining areas of responsibilities and discharge criteria;
 - (C) Description of the child-care program and evaluation method;
 - (D) Program forms;
 - (E) Budget outlining anticipated costs and sources of revenue for the first year of operation;
 - (F) Job descriptions;
 - (G) Staff resumes;
 - (H) Full and part-time staff work schedules;
 - (I) A medical examination report completed by a licensed medical provider on all full- and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff), and any children or relative children of direct care personnel residing in the facility within 12 months prior to the license date. There shall be documentation that all adult direct care personnel residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. The birth children of direct care personnel who reside in the facility shall be tested for TB only if one or more of the parents tests positive for TB. There shall be documentation that adopted children or other relative children residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. A medical history form (DSS-5017) shall be completed by all direct care personnel residing in the facility at the time of initial licensure. A medical examination report, TB test (if required) and a medical history form (DSS-5017) shall be completed on any children or relative children of direct care personnel who subsequently begin residing in the facility;
 - (J) Fire and Building Safety Inspection Report completed and approved by the local fire inspector;
 - (K) Inspection Form for Residential Care Facilities, completed and approved by the county sanitarian;
 - (L) Written approval from the zoning authority; and
 - (M) Written approval from the Division of Health Service Regulation.
 - (2) The licensing authority staff shall notify the residential child-care facility in writing of the licensure decision, conditions of the license, and any recommendations regarding the residential child-care program.
- (c) Licensure Procedures Following Second Year of Operation for all residential child-care facilities.
- (1) Prior to the license expiration date, the licensing authority shall notify a residential child-care facility in writing of the licensure renewal requirements.
 - (2) A residential child-care facility shall submit the following materials to the licensing authority before a license for a residential child-care facility may be renewed, with the exception of Parts (E) and (F) of this Subparagraph, which shall be maintained at the facility for review:
 - (A) License Application and Summary;
 - (B) Governing board list with names, addresses, occupations, length of time and terms on the board, and board positions held and number of terms, if applicable;

- (C) Budget outlining anticipated costs and sources of revenue of the next operating year, with estimation of daily cost of care per child for past year;
 - (D) Annual statistical report of program activities as required by Rule .0202(b) of this Section;
 - (E) A medical examination report completed by a licensed medical provider on all full- and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff), and any children or other relative children residing in the living unit prior to employment;
 - (F) A medical history form completed by all full- and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff) who have been employed since the last relicensing period and any children or other relative children residing in the facility. A residential child-care facility shall have documentation that all full- and part-time direct care personnel residing in the facility who have been employed since the last relicensing period have had a TB skin test or chest x-ray prior to employment unless contraindicated by a licensed medical provider. The birth children of direct care personnel who reside in the facility shall be tested for TB only if one or more of the parents test positive for TB. There shall be documentation that adopted children and other relative children residing in the facility have had a TB skin test or chest x-ray unless contraindicated by a licensed medical provider;
 - (G) The residential child-care facility shall have fire inspections from the local fire inspector. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority biennially with the licensure renewal application;
 - (H) The residential child-care facility shall have sanitation inspections from the county sanitarian. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority biennially with the licensure renewal application;
 - (I) Updated or revised materials including policies, procedures, forms, or amendments to Bylaws or Articles; and
 - (J) If the agency receives foster care maintenance payments of State funds, an annual audit of its financial statements that is in compliance with 10A NCAC 70D .0105(a)(5).
- (3) The licensing authority shall biennially conduct onsite visits to private residential child-care facilities, private agency residential child-care facilities, public agency residential child-care facilities or public residential child-care facilities to determine if licensure standards for residential child-care facilities continue to be met. The licensing authority may conduct announced and unannounced on-site visits to residential child-care facilities.

SECTION .0300 ORGANIZATION AND ADMINISTRATION

*NOTE: Administrative Rules regarding **GOVERNANCE** are now uniform for Child Placing Agencies, Residential Maternity Homes and Residential Child Care Facilities.*

.0301 - Governance

(a) and (b) the facility shall submit a copy of the articles of incorporation and the type and structure of the governing body are new. (d)(e)(f) are new, but agencies had already been submitting (e) for license renewal.

10A NCAC 70I .0301 GOVERNANCE

(a) A private residential child-care facility shall operate under articles of incorporation that are filed with the Department of the Secretary of State (<http://www.secretary.state.nc.us>). A private residential child-care facility shall submit a copy of the articles of incorporation to the licensing authority. The articles of incorporation shall have a statement of purpose which describes the geographic area to be served, kinds of children to be admitted, and the range of services to be provided.

(b) A private residential child-care facility shall have a governing body that exercises authority over and has responsibility for its operation, policies and practices. The residential child-care facility shall notify the licensing authority of the type and structure of the governing body.

- (c) In the case of non-profit or for-profit corporations, the governing body shall:
 - (1) be composed of no fewer than six members to include men and women;
 - (2) provide for a system of rotation for board members, for limitation to the number of consecutive terms a member may serve;
 - (3) establish standing committees;
 - (4) provide orientation for new members; and
 - (5) meet at least four times annually with a quorum present.
- (d) Public residential child-care facilities operated by governmental agencies shall be governed by appointed officials of a governmental unit.
- (e) A residential child-care facility shall submit to the licensing authority a list of members of the governing body. This list shall indicate the name, address and terms of membership of each member and shall identify each officer and the term of that office.
- (f) A residential child-care facility shall permanently maintain meeting minutes of the governing body and committees.

.0302 – Responsibilities of the Governing Body

(3) adds a time frame of at least every 2 years. (6) is new and describes criminal record checks and signed statements for the executive director. The governing body will need to use the exact wording in rule (6) for the statements developed for the executive director to sign.

Agencies may access the North Carolina Sex Offender and Public Protection Registry at the website <http://ncfindoffender.com/> and verify if an individual is listed on Health Care Personnel Registry at the website <http://www.ncnar.org>. To access information from the Responsible Individuals List (RIL) agencies will need to submit a request form DSS-5268 (<http://info.dhhs.state.nc.us/olm/forms/dss/dss-5268-ia.pdf>) to the licensing office in Black Mountain. Please note that information from the RIL can only be requested for full time, part time and contracted employees or potential employees, volunteers and interns. You will need the social security number of the individual to access information from any of the above sources.

10A NCAC 70I .0302 RESPONSIBILITIES OF THE GOVERNING BODY

The governing body shall:

- (1) adopt administrative, personnel, and program policies which are reviewed at least every two years;
- (2) review and approve a budget prior to the beginning of the fiscal year;
- (3) establish and review policies on fundraising and investment management at least every two years;
- (4) annually review and accept the financial audit, in the case of a private residential child-care facility;
- (5) employ an executive director (CEO, director, president, superintendent) and delegate authority to that person to employ and dismiss staff, implement board policies, and manage day-to-day operation of the facility;
- (6) ensure that the criminal history of the executive director is checked prior to employment, and based on the criminal history, a determination is made concerning the individual's fitness for employment. The governing body shall ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed prior to employment, and based on these searches, a determination is made concerning the individual's fitness for employment. The governing body shall submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70I .0102, to determine if the executive director has had child protective services involvement resulting in a substantiation of child abuse or serious neglect, and based on this search, a determination is made concerning the individual's fitness for employment. The governing body shall require that the executive director provide a signed statement prior to employment that he/she has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. The governing body shall require that the executive director provide a signed statement that the executive director has not abused, neglected or exploited a disabled adult and that the

executive director has not been a domestic violence perpetrator. Agencies or applicants that do not have a governing body shall provide this information directly to the licensing authority.

- (7) permit the executive director or his or her designee to attend all meetings of the governing body and committees with the exception of those held for the purpose of reviewing his performance, status, or compensation;
- (8) annually evaluate and document the executive director's performance through specific criteria and objectives;
- (9) initiate and review an annual evaluation of services and direct needed changes based on the evaluation;
- (10) annually review facility needs related to risk management; and
- (11) maintain a long range plan and review annually.

.0303 – Finances And Insurance

The requirement for having a written policy on fees for service in (b)(4) and insurance in (d) are new. (c) repeats the audit requirements.

10A NCAC 70I .0303 FINANCES AND INSURANCE

(a) Fiscal Management: The executive director shall:

- (1) implement sound financial practices in order to prepare and review the budget, and to be accountable to the community; and
- (2) report to the governing body at least quarterly or more frequently, **if requested by any member of the governing body**, on present financial status and anticipated problems.

(b) A residential child-care facility shall:

- (1) have a plan of financing which assures sufficient funds to enable it to carry out its defined purposes and provide proper care and services for children;
- (2) develop adequate resources and manage them prudently in order to obtain the revenues that support its programs and prevent the interruption of needed care and services to clients;
- (3) have a written budget specifying income and expenditures which serves as the plan for management of its financial resources for the program year; and
- (4) **have a written policy on fees for services which shall be inclusive of all fees and charges. No cost beyond the written policy shall be imposed. The agency policy shall describe the relationship between fees and services provided and the conditions under which fees are charged or waived. The agency shall make the policy available to applicants for services at the time an application for services is made.**

(c) Audit: **If the agency receives foster care maintenance payments of State funds, it must submit an annual audit of its financial statements that is in compliance with 10A NCAC 70D .0105(a)(5).**

(d) Insurance: A residential child-care facility shall notify the licensing authority, parents, guardian and legal custodian (if applicable) of its status related to liability insurance for the agency and staff. A residential child-care facility shall provide a written statement of its status related to liability insurance for the residential child-care facility and staff to applicants for services at the time an application for service is made.

.0304 – Internal Operating Procedures

Section .0304 was repealed.

.0305 – Recordkeeping and Reporting

(c) has further details regarding destroying closed records.

10A NCAC 70I .0305 RECORDKEEPING AND REPORTING

(a) A residential child-care facility shall develop and enforce a policy on confidentiality that shall:

- (1) identify the individuals with access to or control over confidential information;
- (2) specify that persons who have access to records **or specified information in a record** be limited to persons authorized by law specifically including the parents, guardian or legal custodian (if applicable) and children (12 years of age and older), agency staff auditing, licensing, or accrediting personnel; and those persons for whom the agency has obtained a consent for release of confidential information signed by the parents, guardian or legal custodian; and

- (3) require that when a child's information is disclosed, a signed consent for release of information is obtained on a consent for release form.
- (b) A residential child-care facility shall:
 - (1) provide a secure place for the storage of records with confidential information;
 - (2) inform any individual with access to confidential information of the provisions of this Rule;
 - (3) ensure that, upon employment and whenever revisions are made, staff sign a compliance statement which indicates an understanding of the requirements of confidentiality;
 - (4) permit a child to review his or her case record in the presence of facility personnel on the facility premises, in a manner that protects the confidentiality of other family members or other individuals referenced in the record, unless facility personnel determine the information in the child's case record would be harmful to the child;
 - (5) in cases of perceived harm to the child, document in writing any refusals to share information with the parents, guardian and legal custodian (if applicable) and child (12 years of age and older);
 - (6) maintain a confidential case record for each child;
 - (7) maintain confidential personnel records for all employees; and
 - (8) maintain confidential records for all volunteers.
- (c) A residential child-care facility may destroy in office a closed record in which a child has been discharged for a period of three years **unless included in a federal or state fiscal or program audit that is unresolved**. A residential child-care facility may destroy in office a record three years after a child has reached age 18, unless included in a federal or state fiscal or program audit that is unresolved. **The agency may destroy these closed records in office when the federal or state fiscal or program audits have been resolved and the agency is released from all audits.**

.0306 – Clients Rights

Section .0306 (b)(3) clarifies family contact as delineated in the visitation and contact plan, rather than in the out of home family services agreement. The child's age has been added to .0306 (d).

10A NCAC 70I .0306 CLIENT RIGHTS

- (a) A residential child-care facility shall develop and implement policies and procedures to protect the individual rights and dignity of children and families.
- (b) A residential child-care facility shall have a client's and family's rights policy which includes that each child has the right to:
 - (1) privacy;
 - (2) be provided adequate food, clothing, and shelter;
 - (3) have access to family time and have telephone conversations with family members, when not contraindicated in the child's **visitation and contact plan**;
 - (4) have personal property and a space for storage;
 - (5) express opinions on issues concerning the child's care or treatment;
 - (6) receive care in a manner that recognizes variations in cultural values and traditions;
 - (7) be free from coercion by facility personnel with regard to religious decisions. The facility shall have a process to assure that, whenever practical, the wishes of the parents or guardians with regard to a child's religious participation are ascertained and followed;
 - (8) not be identified in connection with publicity for the facility which shall bring the child or the child's family embarrassment; and
 - (9) not be forced to acknowledge dependency on or gratitude to the facility.
- (c) A residential child-care facility shall have a policy which prohibits direct involvement by a child in funds solicitation for the facility.
- (d) A residential child-care facility shall have a policy which prohibits the child's participation in any activities involving audio or visual recording and research without the voluntary signed, time-limited consent of the parents, guardian or legal custodian and child **(12 years of age and older)**.

.0307 – Grievance Procedures

No changes.

10A NCAC 70I .0307 GRIEVANCE PROCEDURES

- (a) A residential child-care facility shall provide to each child and parents, guardian or legal custodian upon admission:

- (1) a written description of policies and procedures which the child, parents, guardian or legal custodian follow to register complaints;
 - (2) information about a child's rights;
 - (3) the process for appealing a decision or action of the facility; and
 - (4) the process for resolution of a complaint.
- (b) Upon resolution of a grievance, a residential child-care facility shall maintain a copy of the complaint and the resolution in the case record.

SECTION .0400 PERSONNEL

Reference requirements increased from two references to three references for all staff, interns and volunteers throughout the .0400 section.

.0401 – Personnel Policies

The inclusion of all full-time, part-time and contracted persons in defining employees or staff is reiterated in this section and others.

10A NCAC 70I .0401 PERSONNEL POLICIES

A residential child-care facility shall have written personnel policies and procedures which shall be provided to all employees (**full-time, part-time and contracted**). Revisions of all personnel policies shall be in writing and provided to employees. Policies and procedures shall address the following areas:

- (1) recruitment and hiring;
- (2) compensation structure and benefits;
- (3) orientation plan for new employees;
- (4) training and staff development;
- (5) regulations regarding use of equipment and assets;
- (6) notification of work schedule;
- (7) description of leave policy, including time-off duty for disciplinary actions for direct care staff;
- (8) termination;
- (9) operational procedures regarding grievances which provide the opportunity and means to lodge complaints and appeals;
- (10) description of the process for revision of personnel policies;
- (11) annual evaluations;
- (12) staff quarters and searches; and
- (13) disciplinary measures.

.0402 – Personnel Deployment

No change.

10A NCAC 70I .0402 PERSONNEL DEPLOYMENT

- (a) A residential child-care facility shall ensure that the deployment of personnel supports the stated mission of the facility.
- (b) There shall be a written job description for each position, which includes duties, responsibilities, qualifications, and to whom the position is responsible. Job descriptions shall be consistent with duties being performed.
- (c) A residential child-care facility shall have procedures for annual evaluation of the work performance of each employee which provides for employee participation in the process.
- (d) A residential child-care facility shall have an organizational plan which delineates the number of staff and levels of supervisors/managers, taking into account the complexity and size of the workload of each staff. The plan shall demonstrate supervision of staff in accordance with the rules in Subchapters 70I and 70J of this Chapter, if applicable.

.0403 – Personnel File

(2) three references are now required. (3) Certified college transcripts obtained prior to employment are now required for all positions requiring a college degree. (5) Confidentiality Agreements will need to include the employees understanding and willingness to comply. (6) through (13) and (15)(16) are new. You will need to use the exact wording in rule (6)(11)(12)(13) in the statements developed for employees to sign.

Agencies may access the North Carolina Sex Offender and Public Protection Registry at the website <http://ncfindoffender.com/> and verify if an individual is listed on the Health Care Personnel Registry at the website <http://www.ncnar.org>. To access information from the Responsible Individuals List (RIL) agencies will need to submit a request form DSS-5268 (<http://info.dhhs.state.nc.us/olm/forms/dss/dss-5268-ia.pdf>) to the licensing office in Black Mountain. Please note that information from the RIL can only be requested for full time, part time and contracted employees or potential employees, volunteers and interns. You will need the social security number of the individual to access information from any of the above sources.

10A NCAC 70I .0403 PERSONNEL FILE

A residential child-care facility shall maintain a personnel file for each employee (full-time, part-time and contracted) which includes the following:

- (1) application for employment including the record of previous employment;
- (2) documentation of at least three references;
- (3) applicable position specific credentials or certifications (prior to employment certified college transcripts shall be obtained for positions requiring college degrees);
- (4) medical information required for each staff by licensure standards (initial and biennial medical examinations, initial TB test and medical history form);
- (5) signed statement indicating the employee's understanding of and willingness to comply with confidentiality agreement requirements;
- (6) signed statement that the employee has no criminal convictions that would adversely affect his or her capacity and ability to provide care, safety and security for the children in residence;
- (7) criminal record checks certified by the Clerk of Superior Court;
- (8) results of the search of the North Carolina Sex Offender and Public Protection Registry;
- (9) results of the search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256);
- (10) results of the search of the Responsible Individuals List as defined in 10A NCAC 70A .0102 which indicates the employee has not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (11) a signed statement that the employee has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child;
- (12) signed statement that the employee has not abused, neglected or exploited a disabled adult;
- (13) signed statement that the employee has not been a domestic violence perpetrator;
- (14) record of completed orientation;
- (15) log of training;
- (16) written approval letter from executive director or his or her designee authorizing employee to administer physical restraint holds, if applicable;
- (17) annual performance evaluations;
- (18) documentation of disciplinary actions;
- (19) documentation of grievances filed;
- (20) employee's starting and termination dates;
- (21) reason for termination;
- (22) signed and dated release or notation of employee's waiver of release for future employment references; and
- (23) documentation of a driving record check, if applicable.

.0404 – Personnel Qualifications

Interns are now required to meet these qualifications. (a) defines the criminal record checks and signed statements that all employees, volunteers and interns will need to complete. Please see .0403 for information regarding how to access this information.

10A NCAC 70I .0404 PERSONNEL QUALIFICATIONS

(a) Criminal Records Check by the Residential Child-Care Facility. Applicants, employees, volunteers or interns who have a history of criminal convictions that would adversely affect their capacity and ability to provide care, safety and security for the children in residence shall not be employed or utilized as

volunteers or interns. A signed statement shall be obtained attesting that the applicant, employee, volunteer or intern does not have such a record prior to beginning employment, volunteer duties or internships. Prior to employment or before beginning volunteer duties or internships, a certified criminal record check for the applicant, volunteer or intern shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256), and based on these searches, a decision shall be made concerning the individual's fitness to serve as an employee, volunteer or intern. The agency shall submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70A .0102, to determine if the applicant, employee, volunteer or intern has had child protective services involvement resulting in a substantiation of child abuse or serious neglect, and based on this search, a determination shall be made concerning the individual's fitness to serve as an employee, volunteer or intern. The agency shall require that each applicant, employee, volunteer or intern provide a signed statement that the applicant, employee, volunteer or intern has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. A signed statement shall be obtained attesting that the applicant, volunteer or intern has not abused, neglected or exploited a disabled adult and has not been a domestic violence perpetrator.

(b) Child Abuse. Employees, volunteers or interns who have a criminal conviction of child abuse shall not be permitted any contact with children.

(c) Driver's License. Employees, volunteers or interns driving a residential child-care facility vehicle shall possess a valid driver's license appropriate for the type of vehicle used.

.0405 – Personnel Positions

Several new rules that were published 9/1/07 in section .0800 have been moved to this section for consistency across policy. The new rules effective 7/1/08 regarding staffing requirements are now in (f)(2)(A) and regarding training requirements are now in (f)(2)(C), (f)(4)(C), (g)(1) and (h)(1). The new rule effective 9/1/07 regarding social worker caseloads is now in (h)(2).

Changes in the minimum qualifications for executive director, direct care staff, direct care staff supervisors, social work supervisors and social workers are in sections (b), (f)(1)(A), (f)(3), (g)(1) and (h)(1) respectively. (f) clarifies that anyone who assumes the duties of direct care shall comply with all of the standards for direct care personnel. (f)(2)(B) delineates new requirements for CPR and first aid training and availability of trained personnel. Social work supervisors and social workers are now required as described in (g)(h). Changes in the social work supervisor to social worker ratio are located in the chart in (g)(2).

*This rule contains changes to educational qualifications for Executive Director, Social Work Supervisor, and Social Workers. All of these positions now only require a Bachelor's Degree from a college of university listed in the Higher Education Directory. However the Division of Social Services will resubmit information to the Social Services Commission to update this rule after July 1, 2009. It is anticipated that the qualifications will be as follows: (1) **The executive director** (these are the same qualifications for a Social Services Program Administrator I as determined by the State Office of Personnel) shall have a master's degree in Social Work or Public Administration from a college or university listed in the Higher Education Directory and four years of experience in a human services field including two years in a supervisory or managerial capacity; or graduation from a four-year college or university listed in the Higher Education Directory and six years of experience in a human services field including three years in a supervisory or managerial capacity; or an equivalent combination of education and experience. (2) **The social work supervisor** (these are the same qualifications for Social Work Supervisor II as determined by the State Office of Personnel) shall have a master's degree from an accredited school of social work and one year of social work or counseling experience; or a bachelor's degree from an accredited school of social work and two years of social work or counseling experience; or a master's degree in a counseling field and two years of social work or counseling experience; or four-year*

degree in a human services field from a college or university listed in the Higher Education Directory or related curriculum including at least 15 semester hours in courses related to social work or counseling and three years of social work or counseling; or graduation from a four-year college or university listed in the Higher Education Directory and four years of experience in rehabilitation counseling, pastoral counseling, or a related human services field providing experience in the techniques of casework, group work, or community organization; or an equivalent combination of training and experience. (3) **The social worker** (these are the same qualifications for a Social Worker II as determined by the State Office of Personnel) shall have a bachelor's degree in social work from an accredited school of social work; or a bachelor's degree in a human services field from a college or university listed in the Higher Education Directory and one year directly related experience; or a bachelor's degree from a college or university listed in the Higher Education Directory and two years directly related experience. Directly related experience is defined as human services experience in the areas of case management, assessment and referral, supportive counseling, intervention, psycho-social therapy and treatment planning.

10A NCAC 70I .0405 PERSONNEL POSITIONS

(a) Executive Director. There shall be a full-time executive director for an agency with one or more facilities licensed for 20 or more children. At a minimum, there shall be a part-time executive director for an agency with one or more facilities licensed for less than 20 children.

(b) The executive director employed after July 1, 2008, shall have at a minimum a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory, which can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715.

(c) The executive director shall:

- (1) be responsible for the general management and administration of the residential child-care facility in accordance with policies established by the governing board and licensing requirements;
- (2) explain licensing standards, residential child-care standards and the residential child-care facility's services to the board, the facility's constituency, other human service agencies and the public;
- (3) initiate and carry out the program of residential child-care as approved by the governing board;
- (4) report to the governing board on all phases of operation at least quarterly;
- (5) delegate authority and responsibility to staff qualified to ensure the maintenance of the residential child-care facility's operations;
- (6) establish and oversee fiscal practices, present the annual operating budget and quarterly reports to the governing board;
- (7) evaluate, at least annually, the training needs of the staff; plan and implement staff training and consultation to address identified needs;
- (8) employ and discharge staff and meet on a regular basis with administrative and management staff to review, discuss and formulate policies and procedures;
- (9) supervise staff who report directly to the executive director; and
- (10) conduct an annual individual written evaluation of each staff member who reports directly to the executive director. This evaluation shall contain both a review of job responsibilities and goals for future job performance.

(d) Clerical, Maintenance and Other Support Personnel. The residential child-care facility shall employ or contract personnel qualified to perform all clerical, support and maintenance duties.

(e) Business and Financial Personnel. The residential child-care facility shall employ or contract personnel to perform all business, accounting and financial functions.

(f) Direct Care Service Personnel. Any staff member who assumes the duties of direct care service personnel in the living unit shall comply with all the standards for direct care services personnel in the living unit.

(1) Direct care service personnel, hired after October 1, 2008, shall:

- (A) have a high school diploma or GED;
- (B) complete a medical history form prior to assuming the position;
- (C) have a medical examination by a licensed medical provider 12 months prior to assuming the position and biennially thereafter. This report shall include a

statement indicating the presence of any communicable disease which may pose a risk of transmission in the residential child-care facility. After the initial examination, the cost of the medical examinations as required by licensure shall be at the expense of the facility;

- (D) have a TB skin test or chest x-ray, unless the medical provider advises against this test, prior to assuming the position; -
- (2) Standards for direct care service personnel in the living unit:
 - (A) There shall be one direct care staff personnel assigned to every six children during waking hours and one direct care staff personnel assigned to every ten children during overnight hours.
 - (B) A residential child-care facility shall ensure that a staff member trained in cardiopulmonary resuscitation (CPR) and first aid, such as those provided by the American Red Cross, the American Heart Association or equivalent organizations, is always available to the children in care; and that direct care service personnel shall receive training in first aid and CPR within the first thirty days of employment. Training in CPR shall be appropriate for the ages of children in care. First aid and CPR training shall be updated as required by the American Red Cross, the American Heart Association or equivalent organizations.
 - (C) A residential child-care facility shall ensure that direct care service personnel receive supervision and training in the areas of child development, permanency planning methodology, group management, preferred discipline techniques, family relationships, human sexuality, health care and socialization, leisure time and recreation. In addition, the residential child-care facility shall provide training to direct care service personnel in accordance with the needs of the client population, including, training in child sexual abuse. Direct care service personnel shall receive 24 hours of continuing education annually.
 - (D) A residential child-care facility shall ensure that direct care service personnel receive supervision in food preparation and nutrition when meals are prepared in the living unit.
 - (E) Any duties other than direct care services duties assigned to direct care service personnel shall be specified in writing and assigned in accordance with the residential child-care program.
- (3) Direct care service supervisory personnel, hired after October 1, 2008, shall have a high school diploma or GED.
- (4) Standards for direct care service supervisory personnel:
 - (A) There shall be at least one supervisor for every 15 direct care service personnel.
 - (B) Supervisory staff shall be selected on the basis of the knowledge, experience and competence required to manage direct service personnel.
 - (C) Direct care service supervisory personnel shall receive 24 hours of continuing education annually.
- (g) Social work supervisors shall be employed by the residential child-care facility to supervise, evaluate and monitor the work and progress of the social work staff.
 - (1) Social work supervisors shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory, Social work supervisors shall receive 24 hours of continuing education annually.
 - (2) Supervision of social workers shall be assigned as follows:

| Supervisors Required | Social Workers Employed |
|---|--|
| 0 | 0-4 (executive director serves as social work supervisor) |
| 1 | 5 |
| 2 | 6-10 |
| 3 | 11-15 |
| There shall be one additional supervisor for every one to five additional social workers. | |

- (h) Social workers shall be employed by the residential child-care facility to provide social work services to the children in care and their families in accordance with the out-of-home family services agreement.

- (1) Social workers shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory. Social workers shall receive 24 hours of continuing education annually.
- (2) There shall be at least one social worker assigned for every 15 children.
- (3) A residential child-care facility shall ensure that social workers receive supervision and training in the areas of child development, permanency planning methodology, group dynamics, family systems and relationships, and child sexual abuse.
- (4) Social workers shall be familiar with community resources for children and their families in addition to the agency's services.
- (5) Any duties other than social work duties assigned to staff employed as social workers shall be specified in writing and assigned in accordance with the residential child-care program.

.0406 – Auxillary Services Personnel

No change.

10A NCAC 70I .0406 AUXILIARY SERVICES PERSONNEL

- (a) The residential child-care facility shall have available auxiliary services provided by contract to supplement the program of care. These service providers may include, but are not limited to, consultants, contracted services for the program of care, maintenance of the facility, and interns or students.
- (b) Consultants shall be practitioners who are recognized by applicable degrees, organizations and appropriate licensing boards. If the residential child-care facility contracts with consultants, the facility shall document the consultants' credentials.
- (c) Paid consultants shall not be in conflict of interest with the residential child-care facility in fact or appearance. They shall have no direct or indirect financial interest in the assets, transactions or services of the agency.
- (d) Interns or students shall meet all of the requirements stipulated for the position in which they are serving with the exception of completed education and experience. There shall be a written agreement between the placing educational institution and the residential child-care facility specifying responsibilities and supervision of the intern or student.

.0407 – Volunteers

(4) three references are now required. (5) describes the new criminal checks and signed statements. Please see .0403 for information regarding how to access this information.

10A NCAC 70I .0407 VOLUNTEERS

A residential child-care facility shall have a written description of the specific responsibilities and the provision of supervision of all volunteers. Volunteers shall:

- (1) meet the personnel qualifications specified in 10A NCAC 70I .0404;
- (2) meet the qualifications and implement the duties of the position as specified;
- (3) be provided sufficient orientation, training and supervision to enable knowledge of the facility's purpose and services, the needs of children and families served and the role and responsibilities to be assumed;
- (4) provide three references relevant to the role and responsibilities to be assumed;
- (5) have documentation in their personnel files of a search of the Responsible Individual's List as defined in 10A NCAC 70A .0102; documentation of a criminal record check; documentation of a search conducted of the North Carolina Sex Offender, Public Protection Registry; and documentation of a search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-356). Volunteers shall provide signed statements prior to employment that they have not abused or neglected a child or have been a respondent in a juvenile court proceeding that resulted in the removal of a child or have had child protective services involvement that resulted in the removal of a child. Volunteers shall also provide signed statements that they have not abused, neglected or exploited a disabled adult and that they have not been a domestic violence perpetrator; and
- (6) agree in writing to abide by the confidentiality policies of the agency.

SECTION .0500 SERVICE PLANNING

The deletion of the wording "family time" and change to the requirement for a "visitation and contact plan" are further described in several sections.

.0501 – Admission Policies

No change.

10A NCAC 70I .0501 ADMISSION POLICIES

- (a) A residential child-care facility shall have written admission policies which define and describe the age, sex and type of child to be served.
- (b) The residential child-care facility shall limit admissions to children who need out of home care apart from their families and for whom the facility is qualified by staff, program, buildings and services to give appropriate care.
- (c) In the case of private referrals, the residential child-care facility shall:
 - (1) document reasonable efforts to prevent placement;
 - (2) establish that the facility provides the least restrictive setting for the child; and
 - (3) develop and implement an out-of-home family services agreement with the child's family for reunification, when possible.
- (d) In the case of out-of-state referrals (both public and private), the residential child-care facility shall not admit a child to the facility without the approval of Interstate Compact on the Placement of Children.
- (e) The residential child-care facility shall provide each applicant a handbook of admission procedures which includes:
 - (1) a description of the admissions process;
 - (2) the application, including any fees for services;
 - (3) the preplacement activities for the child, parents, guardian or legal custodian; and
 - (4) an explanation of the group assignment method.
- (f) The residential child-care facility shall maintain a referral log which includes:
 - (1) child's name, age, sex, and race;
 - (2) names of parents, guardian or legal custodian; and
 - (3) disposition of admission.

.0502 – Admission Procedures

(b) clarifies that the agency requesting placement is required to complete the intake study. Note that if the facility uses the Application For Service developed by the Child and Family Services Association, NC this application can be used as the intake study if this is noted in the agency policy.

10A NCAC 70I .0502 ADMISSION PROCEDURES

- (a) A residential child-care facility shall establish and implement an intake process which includes:
 - (1) receipt of an application and a face-to-face interview with the child, parents, guardian or legal custodian, and family whenever possible, with a specific effort to help the child understand the purpose of and need for out of home care and residential child-care services; and
 - (2) an exchange of information about the facility's program and the child's needs, and to provide written information required in 10A NCAC 70I .0307(a) and 10A NCAC 70I .0504(a).
- (b) **The agency requesting placement shall complete** a written intake study for each child accepted into residential care which includes:
 - (1) circumstances that led to the need for placement, and the child's understanding of the placement;
 - (2) assessment of family issues and justification that the facility meets the needs of the child and family;
 - (3) short-term placement goals and long range permanent plan, including the parent's, guardian's or legal custodian's expectations;
 - (4) description of the child's family and significant others;
 - (5) description of the child's behavior;
 - (6) child specific information, including:
 - (A) medical history, including any current medical problems;
 - (B) developmental history and current level of functioning;
 - (C) educational history, if applicable; and
 - (D) the results of current psychological testing, if applicable.

.0503 – Admission Agreement

(a)(5) Change from “family time” to “visitation and contact plan”

10A NCAC 70I .0503 ADMISSION AGREEMENT

(a) At admission, a residential child-care facility shall develop a written agreement between the parents, guardian or legal custodian and the facility which specifies the services to be provided by the facility and the responsibilities of the parents, guardian or legal custodian which includes the following:

- (1) statement of consent for placement by the parents, guardian or legal custodian, with the date of admission;
- (2) plan for providing admission information on the child's care, developmental, educational, medical, and psychological needs to the parents, guardian or legal custodian, the frequency of out-of-home family service agreement reviews, and receipt of program information required by 10A NCAC 70I .0307(a) and 10A NCAC 70I .0504(a);
- (3) statement of facility responsibility for working with the child's parents, guardian or legal custodian;
- (4) statement related to the provision of religious training and practices and consent to these by the parents, guardian or legal custodian;
- (5) **visitation and contact plan;**
- (6) fees and plan for payment of care;
- (7) plan for discharge to include projected length of stay; and
- (8) statement of facility responsibility for aftercare services.

(b) For foster children 18 years of age and older residing in the residential child-care facility or reentering the facility, the facility shall obtain a voluntary placement consent signed by the foster child that specifies the conditions for residential child-care and services.

.0504 - Orientation

(e) gives greater detail of the visitation or contact plan. (h) requires that the Department of Social Services provide the facility and the child with a copy of the out-of-home family services agreement. (j) is new – the push to use one case plan for children in DSS custody has been around for some time. Since this rule requires you to participate in court, CFTs, agency reviews, etc. you will need to make sure that your input is reflected in the out-of-home family services agreement (your agency is providing residential care, transportation, other services – your staff signatures, etc.) and then you can use this as your out-of-home family services agreement.

10A NCAC 70I .0504 ORIENTATION

(a) A residential child-care facility shall provide information and discuss the program policies governing residential care and services for children with the child's parents, guardian or legal custodian and the child at or before admission, which include:

- (1) family time, mail, gifts, personal possessions, money, and telephone calls and restrictions which may be imposed on these;
- (2) discipline and behavior management, including the use of searches of children's rooms and possessions;
- (3) program of religious training and practices;
- (4) educational resources;
- (5) trips away from the facility;
- (6) use of volunteers, if any;
- (7) physical restraint practices;
- (8) client rights and grievance procedures; and
- (9) daily and seasonal schedules.

(b) The residential child-care facility shall obtain the out-of-home family services agreement from the county department of social services at or before admission when the county department of social services is the legal custodian. In the case of a private placement, the facility shall develop an out-of-home family services agreement.

(c) The residential child-care facility shall develop a written out-of-home family services agreement for each child within 30 days of admission. The out-of-home family services agreement shall be reviewed initially within 60 days, the second review shall be within 90 days of the initial review and the third and subsequent reviews shall be held every six months, inviting parents or guardian, the legal custodian, if different, the child, as well as any individual or agency designated as providing services to participate.

(d) The out-of-home family services agreement shall be developed utilizing information from an assessment of the child's and family's needs and include goals based on normal developmental tasks and needs. The goals and objectives shall be based on identified issues, be behaviorally specific, time limited and measurable and include staff assignments and specific strategies to be taken to meet the goals in the following areas:

- (1) special interests and personal goals;
- (2) intellectual, academic and vocational;
- (3) psychological and emotional;
- (4) medical;
- (5) social and family relationships;
- (6) cultural and spiritual; and
- (7) basic living skills.

(e) A visitation and contact plan shall be developed for each child by the parents, guardian or legal custodian, if different.

(f) A written discharge plan shall be part of the out-of-home family services agreement.

(g) Direct care staff shall be informed about the child's out-of-home family services agreement by the executive director of the residential child-care facility or his or her designee and shall participate or provide input at the reviews as described in Paragraph (c) of this Rule.

(h) A copy of the child's out-of-home family services agreement shall be provided to the parents, guardian and the executive director of the residential child-care facility or his or her designee by the county department of social services serving as the legal custodian. The child's out-of-home family services agreement shall be provided to other agencies and individuals listed as providing services to the child and his or her parents or guardian. An age appropriate version of the out-of-home family services agreement shall be written and provided to each child by the legal custodian.

(i) The child's out-of-home family services agreement review shall include:

- (1) an evaluation of progress towards meeting identified needs;
- (2) any new needs identified since the child's out-of-home family services agreement was developed or last reviewed and behaviorally-specific strategies to meet these needs, including instructions to staff;
- (3) an update of the estimated length of stay and discharge plan; and
- (4) signatures of the persons participating in the review.

(j) If the legal custodian is a county department of social services, the residential child-care agency, department of social services, parents or guardian, other service providers and child shall develop a single out-of-home family services agreement. The residential child-care staff shall attend court reviews, child and family team meetings, agency reviews and permanency planning action team meetings. The Out-of-Home Family Services Agreement (DSS-5240 or DSS-5241) and the Transitional Living Plan (CARS Plan Review) may serve as the out-of-home family services agreement for the residential child-care facility if the documents reflect input and participation by the residential child-care facility.

.0505 – Discharge Policies and Procedures

(a)(4) adds requirements for documentation of the time of discharge and the authorized person and their relationship to the child and gives further details of information required in the discharge summary. (d) is new concerning return of medication – we suggest that you add this to your discharge paperwork – date, time, person discharged to, clothing returned, copy of records given to them, medications returned, etc. and have the person the child was released to sign and date.

10A NCAC 70I .0505 DISCHARGE POLICIES AND PROCEDURES

(a) A residential child-care facility shall have written discharge policies that will establish the guidelines for terminating the facility's residential care and services to the child and family to include the following:

- (1) opportunity for the parents, guardian or legal custodian to be informed and have opportunity to discuss the decision to discharge the child;
- (2) designation of a timeframe for the child to be discharged which allows sufficient time for the child and facility to prepare for departure and for arrangements to be made for the child's care;
- (3) discharge of a child under 18 years of age only to the parents, guardian or legal custodian;
- (4) completion of a summary within 30 days of discharge, which includes the following:
 - (A) date, time and circumstances of discharge;

- (B) name, address and telephone number of the **parents, guardian**, legal custodian or **authorized individual** to whom the child was discharged;
 - (C) services provided and evaluation;
 - (D) recommendations for needed services; and
 - (E) provision of or referral for after care services.
- (b) Upon a child's departure, the residential child-care facility shall provide a copy of the child's educational, medical and dental records, clinical materials (as available) and other related materials to the parents, guardian or legal custodian.
- (c) Upon a child's departure, the residential child-care facility shall send all personal clothing and belongings with the child.
- (d) **Upon a child's departure, the residential child-care facility shall return prescription medications to the person or agency legally authorized to remove the child from residential child-care.**

.0506 – Client Records

(a)(10) gives further details of documentation of all family time. (a)(18) restates the requirements for discharge documentation. (a)(4)(6) provides further description of application and pre-admission medical examinations. (13) now specifies consents for out of state field trips. (9) court orders and (17) progress notes are new. Note that the progress notes should be signed or initialed and dated as required in (c). Physical restraint reports are no longer required to be maintained in the client record and this is further described in sections .0613 and .0614.

10A NCAC 70I .0506 CLIENT RECORDS

(a) A residential child-care facility shall maintain a client record for each child which contains the following:

- (1) documentation of placement authority by parents, guardian or legal custodian;
 - (2) written placement consent and agreement;
 - (3) intake study and related documents;
 - (4) completed application for services **that includes demographic information on the child and the child's family;**
 - (5) documentation that verifies the child's birth;
 - (6) **pre-admission medical examination report or a medical examination report completed within two weeks of admission (unless the child's health status indicates the completion of a medical examination report sooner) and copies of subsequent medical examination reports;**
 - (7) immunization records;
 - (8) out-of-home family services agreement and reviews;
 - (9) **court orders;**
 - (10) **visitation and contact plan**, including type, duration, location both on-site and off-site, and frequency, as well as any rationale for restrictions on family involvement; **the facility shall maintain documentation of all family time;**
 - (11) consents for release of information;
 - (12) consent for emergency medical treatment;
 - (13) consents for **out-of-state** field trips;
 - (14) consents for time-limited audio-visual recording signed by both the child and parents or guardian, and legal custodian (if applicable);
 - (15) ongoing record of medical and dental care;
 - (16) documentation of medical insurance;
 - (17) **progress notes;** and
 - (18) discharge summary including date of discharge, **time of discharge** and the name, address, telephone number **and relationship of the person or agency to whom the child was discharged, a summary of services provided during care, needs which remain to be met and plans for the services needed to meet these goals.**
- (b) The residential child-care facility shall maintain client records for the purpose of:
- (1) protecting the legal rights of the child, parents, guardian or legal custodian, and the facility;
 - (2) documenting service provision to the child and family, including an evaluation of effectiveness of services provided; and
 - (3) providing a source of information about individual children, as well as information for the facility in planning its program of care and services.

- (c) Staff members recording entries in client records shall date, initial or sign entries.

SECTION .0600 SERVICE DELIVERY

.0601 – Program Policies and Practices

No changes.

10A NCAC 70I .0601 PROGRAM POLICIES AND PRACTICES

- (a) A residential child-care facility shall have a written program description and written program policies and procedures.
- (b) The residential child-care facility shall design a program to provide opportunities for positive learning experiences and to meet the needs of children and families.
- (c) The residential child-care facility shall provide a daily schedule of activities to meet the needs of children, which allows time for privacy and individual pursuits.
- (d) The residential child-care facility shall consider each child an unique individual, providing opportunities which take into consideration each child's ethnic and cultural backgrounds.
- (e) The residential child-care facility shall give each child individual attention and nurturing.
- (f) The residential child-care facility shall provide each child with the opportunity to have interaction with adults and children of both sexes.
- (g) The residential child-care facility shall instruct and supervise each child in personal care, hygiene, and grooming appropriate for the age, sex, race and developmental capacity of the child.
- (h) The residential child-care facility shall ensure that each child has normal contacts in the community in which the facility is located through participation in events such as school functions, recreational facilities, church youth groups, part-time paid employment, community service and volunteer work. An exception shall be made when community contact is inconsistent with the program design.
- (i) The residential child-care facility shall encourage each child to form friendships with children outside the facility, to visit friends in the community, and have their friends visit them at the facility. An exception shall be made when contact with friends is inconsistent with the program design or out-of-home family services agreement.
- (j) The residential child-care facility shall provide residents with access to telephones to maintain contact with friends and family members.
- (k) The residential child-care facility shall maintain a log of children in residence which includes:
 - (1) child's name, age, sex and race;
 - (2) name of parents, guardian or legal custodian; and
 - (3) dates of admission and discharge.

.0602 – Family Involvement

(c) allows children to have communication with and receive mail from “other individuals” unless there are document restrictions. (d) specifies that all contact must be in compliance with the visitation and contact plan.

10A NCAC 70I .0602 FAMILY INVOLVEMENT

- (a) A residential child-care facility shall have written policies and procedures regarding family involvement which support and encourage families to participate in planning, communication and family time.
- (b) The facility shall afford parents, guardians and legal custodians opportunities to participate in planning events for their child and themselves.
- (c) Parents, guardians and legal custodians shall allow children to send and receive unopened mail and to have telephone conversations with parents, guardians, other family members **and other individuals**. An exception shall be made if it is determined by the parents, guardians or legal custodians that it is in the child's best interest, to restrict communication based on the out-of-home family services agreement, visitation and contact plan or a court order.
- (d) The facility shall afford children and parents, guardians, other family members and individuals opportunities for family time, based on the purpose of placement and in support of the child's goals **and in compliance with the child's visitation and contact plan.**

.0603 – Visiting Resources

Section .0603 concerning visiting resources was repealed. Note that all visits should be on the visitation and contact plan and approved and arranged by the parent, guardian or legal custodian.

.0604 – Health Services

(a) timeline for preadmission examinations changed from within 6 months of admission to within 12 months of admission and the requirement for a medical examination within two weeks after admission or sooner if no preadmission examination is obtained was added. (n)(r)(s)(t) are new in rule but are what most of you are currently practicing. (u) is new – we talked about returning the medication to the parent/custodian in the discharge section. This adds providing education –so you might want to add that to your discharge paperwork that they sign. Returning medication to the pharmacy is new.

Note that we have learned that some pharmacies will not accept the medication for disposal. If you find this to be the case, ask the pharmacist what the best way of disposing of the medication would be. Record on the MAR that the pharmacy would not accept the medication and how the agency disposed of the medication per the instructions of the pharmacist.

10A NCAC 70I .0604 HEALTH SERVICES

(a) No child shall be accepted into a residential child-care facility without having had a medical examination by a licensed medical provider **within 12 months prior to admission, or a medical examination by a licensed medical provider within two weeks after admission or sooner if indicated by the child's health status.** The medical examination shall include a signed statement by the licensed medical provider specifying the child's medical condition and medications prescribed and indicating the presence of any communicable disease which may pose a risk of transmission in the facility. If a child is in the custody of a department of social services, is already scheduled to have and is having a medical examination report completed annually, and is entering a facility, the schedule of annual medical examination reports shall not be changed. A copy of the most recent medical examination report shall be obtained from the responsible county department of social services by the facility.

(b) A child admitted to a residential child-care facility shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola), rubella, mumps, and any other disease as required by 10A NCAC 41A .0400, as age appropriate, prior to admission. The facility shall obtain documentation of immunization. A copy of 10A NCAC 41A .0400 may be accessed at the following website (<http://www.oah.state.nc.us/rules/>) at the time of adoption of this Rule.

(c) A residential child-care facility shall make arrangements with one or more licensed medical providers or medical clinics and with at least one dentist for the care of the children.

(d) Each child shall have a medical examination at least once a year and more often as needed. A child shall not be allowed to participate in activities that pose risks to his or her health. Any illness, disease or medical condition of a child shall be identified and treated promptly through proper medical care. Children shall have a psychiatric or psychological examination or both when indicated and treatment when indicated.

(e) Children shall have had a dental examination, by a licensed dentist, within one year prior to admission or arrangements shall be made for an exam within six weeks after admission and annually thereafter. The facility shall document dental services in the child's record.

(f) The facility shall instruct direct child-care staff on medical care which may be given by them without specific orders from a licensed medical provider. The facility shall instruct direct child-care staff in the procedures for obtaining medical care beyond home health care and handling medical emergencies.

(g) The residential child-care facility shall arrange with a hospital for the admission of children from the facility in the event of serious illness or emergency.

(h) The residential child-care facility shall obtain a mouthpiece, utilize universal precautions and other precautionary equipment for administering CPR for the children in residence.

(i) The residential child-care facility shall ensure that first aid kits are available for immediate use in each living unit, recreation area and in vehicles used to transport children.

(j) The residential child-care facility shall not engage in any home health care practices that conflict with the control measures for communicable diseases in 10A NCAC 41A .0200. A copy of 10A NCAC 41A .0200 may be accessed at the following website (<http://www.oah.state.nc.us/rules/>) at the time of adoption of this Rule.

- (k) Direct child-care staff shall be able to recognize common symptoms of illnesses in children and be alert to any infectious condition and take proper precautions to prevent the spread of such a condition.
- (l) Direct child-care staff shall be able to provide home health care. A thermometer shall be kept available for use. When there is risk of transmission, arrangements shall be made for isolation and attendant care of a child with a communicable disease.
- (m) Prescription medications shall be administered only when approved by a licensed medical provider.
- (n) Non-prescription medication shall be administered only when approved by the parents, guardian, legal custodian or a licensed medical provider.
- (o) All medicines, prescription and non prescription, shall be stored in a locked cabinet, closet or box not accessible to children.
- (p) Each child shall have a medical record which contains written consent from the legal custodian or parent authorizing routine medical and dental treatment and emergency treatment.
- (q) Each child shall have a medical record which contains the preadmission medical examination report, or a medical examination report within two weeks after admission (or sooner if indicated by the child's health status), immunization records, and records of ongoing medical and dental care and examinations received, including hospitalizations, illnesses or accidents and treatment provided.
- (r) A residential child-care facility shall have written policies and procedures regarding the administration of medications to children placed in the residential child-care facility. The executive director of a residential child-care facility, or his or her designee, shall discuss and provide these policies and procedures to the parents, guardian or legal custodian, and the child (if twelve years of age or older), upon admission.
- (s) The residential child-care facility shall maintain a Medication Administration Record (MAR) for each child that documents all medications administered.
- (t) The residential child-care facility shall document medication errors, adverse drug reactions and medication orders in the child's Medication Administration Record (MAR).
- (u) Upon discharge of a child, the residential child-care facility shall return prescription medications to the person or agency legally authorized to remove the child from residential child-care. The residential child-care facility shall provide oral or written education to the person or agency legally authorized to remove the child from residential child-care regarding the medications. Unwanted, out-dated, improperly labeled, damaged, adulterated or discontinued prescription medications shall be returned to a pharmacy for disposal.

.0605 – Routine Aspects of Health, Personal Hygiene, And Safety

(a) requires agencies to keep abreast of general infection control procedures by incorporating them into rule including subsequent amendments and editions.

10A NCAC 70I .0605 ROUTINE ASPECTS OF HEALTH, PERSONAL HYGIENE, AND SAFETY

- (a) Staff shall receive training in and apply general infection control measures and procedures which include Universal Precautions specified by the Centers on Disease Control, U.S. Department of Health and Human Services, Public Health Services, Atlanta, Georgia. A copy of general infection control procedures which are hereby incorporated by reference including subsequent amendments and editions, may be obtained from National Technical Information Services, 5285 Part Royal Road, Springfield, Virginia, 22161, (703) 487-4650, at a cost of seven dollars (\$7.00).
- (b) Each child in a residential child-care facility shall have enough sleep for his or her age at regular and reasonable hours and under conditions conducive to rest.
- (c) Staff of a residential child-care facility shall teach children the importance of cleanliness and how to keep themselves clean. Staff of a residential child-care shall provide training in all aspects of personal hygiene.
- (d) Each child shall have his or her own toothbrush, comb, towel and wash cloth and his or her own separate place for keeping these personal articles. Towels, wash cloths, and bed linens shall be changed weekly or more often as required by good hygiene.

.0606 - Nutrition

(a) requires agencies to keep abreast of nutritional requirements by incorporating them into rule including subsequent amendments and editions.

10A NCAC 70I .0606 NUTRITION

- (a) Meals served shall meet nutritional requirements as advised by the National Research Council which are hereby incorporated by reference including subsequent amendments and editions. Copies of the Recommended Daily Dietary Allowances may be obtained from the USDA Center for Nutrition Policy and Promotion, 1120 20th Street, NW, Suite 200N, Washington, DC 20036, at no cost.

- (b) Any modified food needs of an individual child shall be provided under the direction of a licensed medical provider or a licensed dietician/nutritionist.
- (c) Menus shall be planned by or in consultation with a licensed dietician/nutritionist biennially. The facility shall obtain documentation of consultation.
- (d) Staff who eat with children shall be served the same food except staff may be served tea and coffee. An exception shall be made if differences in age or special dietary needs are factors.

.0607 – Health Education

.0608 – Educational and Vocational Services

.0609 – Recreation and Leisure Activities

.0610 – Religion and Spiritual Development

.0611 – Personal Possessions and Money

No changes.

10A NCAC 70I .0607 HEALTH EDUCATION

The residential child-care facility shall develop and implement a plan for the provision of health education to include but not be limited to health, human sexuality, substance abuse, smoking, and prevention of sexually transmitted diseases. The health education plan shall be documented.

10A NCAC 70I .0608 EDUCATIONAL AND VOCATIONAL SERVICES

- (a) The residential child-care facility shall ensure that each child of school age is provided an education in accordance with the public school laws or the nonpublic school laws of North Carolina.
- (b) The residential child-care facility shall make provisions for remedial educational assistance as indicated by the needs of the children.
- (c) The residential child-care facility shall have a policy about serving children who are temporarily or permanently not attending school.
- (d) The residential child-care facility shall have a written policy for providing vocational and life skills education if applicable to the population served.

10A NCAC 70I .0609 RECREATION AND LEISURE ACTIVITIES

- (a) A residential child-care facility shall develop a written schedule of planned recreational, leisure, or physical exercise activities with input from both staff and children which meets the children's developmental needs, and which shall be posted in each facility.
- (b) A residential child-care facility shall provide a variety of indoor and outdoor, individual and group recreational opportunities, with suitable space and competent adult supervision, appropriate to the age, interests, and needs of each child.
- (c) A residential child-care facility shall provide recreational opportunities for children to play with children of both genders. An exception shall be made when the program cares for only one gender.
- (d) A residential child-care facility shall have an individualized recreation plan for any child who has special recreational needs.

10A NCAC 70I .0610 RELIGION AND SPIRITUAL DEVELOPMENT

- (a) A residential child-care facility shall have written policies and procedures on religious training and practices and shall provide these policies to children and their parents, guardian or legal custodian prior to admission.
- (b) The residential child-care facility shall develop a plan for each child to meet the child's spiritual needs which takes into account the parent's, guardian's or legal custodian's position regarding a child's religious participation.
- (c) The residential child-care facility shall have written policies and procedures which include that each child is free from coercion with regard to religious decisions.

10A NCAC 70I .0611 PERSONAL POSSESSIONS AND MONEY

- (a) The residential child-care facility shall allow each child to bring and acquire personal belongings, but may supervise or limit the use of these items while the child is in care.
- (b) The residential child-care facility shall ensure that each child has clean, well-fitting, attractive, seasonal clothing appropriate to the age, sex and individual needs of each child.
- (c) The residential child-care facility shall ensure that each child has individual items necessary for personal hygiene and grooming.
- (d) The residential child-care facility shall provide opportunities for each child to learn the value and use of money.

- (e) The residential child-care facility shall provide security measures for each child's money separate from the agency's financial accounts.

.0612 - Work

(e) requires that agreements with youth concerning work be written.

10A NCAC 70I .0612 WORK

- (a) A residential child-care facility shall provide opportunities for each child to learn the value of work and the development of good work habits.
- (b) The residential child-care facility shall comply with the provisions of the NC Wage and Hour Act concerning age, abilities, hours of labor and hazardous occupations in the assignment of work to children.
- (c) The residential child-care facility shall not substitute children for employed staff in assigning work.
- (d) The residential child-care facility shall not require children to be solely responsible for any major phase of operation or maintenance of the home such as cooking, laundering, housekeeping, farming, or repair work.
- (e) The residential child-care facility shall not require children to work for the purpose of paying the facility for their cost of care except when adolescents or young adults preparing for independent living enter into **written** agreements with the facility and are paid for their work and assume a gradual degree of responsibility for their own needs.
- (f) The residential child-care facility shall provide children who are on work assignments with adult supervision.
- (g) The residential child-care facility shall ensure that children's work assignments do not interfere with school, recreation, study period, adequate sleep, community contacts and family time.

.0613 – Discipline and Behavior Management

(j)(2)(I) changes the requirement for supervisory review of physical restraint reports from within 48 hours to within 72 hours and sets the new requirement of notification to the licensing authority to within 72 hours. The qualifications and training requirements for physical restraint instructors found in (j)(4) are new. (j)(6) provides instruction regarding the maintenance of physical restraint reports.

10A NCAC 70I .0613 DISCIPLINE AND BEHAVIOR MANAGEMENT

- (a) A residential child-care facility shall have written policies and procedures on discipline and behavior management, including the type and use of physical restraint holds, if utilized. A copy of the written policies and procedures shall be provided to and discussed with each child and the child's parents, guardian or legal custodian prior to or at the time of admission. Policies and procedures shall include:
- (1) proactive means for interacting with and teaching children which emphasize praise and encouragement for exhibiting self control and desired behavior; and
 - (2) methods for protecting children and others when a child is out of control.
- (b) A residential child-care facility shall implement standards for behavior which are reasonable and developmentally appropriate.
- (c) A residential child-care facility shall not engage in discipline or behavior management which includes:
- (1) corporal and physical punishment;
 - (2) cruel, severe, or humiliating actions;
 - (3) discipline of one child by another child;
 - (4) denial of food, sleep, clothing or shelter;
 - (5) denial of family contact, including family time, telephone or mail contacts with family;
 - (6) assignment of extremely strenuous exercise or work;
 - (7) verbal abuse or ridicule;
 - (8) mechanical restraints;
 - (9) a drug used as a restraint, except as outlined in Paragraph (e) of this Rule;
 - (10) seclusion or isolation time-out; or
 - (11) physical restraints except as outlined in Paragraph (f) of this Rule.
- (d) Time-out means the removal of a child to a separate unlocked room or area from which the child is not physically prevented from leaving. The residential child-care facility may use non-isolation time-out as a behavioral control measure when the facility provides it within hearing distance and sight of a staff member. The length of time alone shall be appropriate to the child's age and development.
- (e) A drug used as a restraint means a medication used to control behavior or to restrict a child's freedom of movement and is not a standard treatment for the child's medical or psychiatric condition. A drug used

as a restraint shall be employed only if required to treat a medical condition. It shall not be employed for the purpose of punishment, staff convenience or as a substitute for adequate staffing.

(f) Physical restraint of a child means physically holding a child who is at imminent risk of harm to himself or others until the child is calm.

(g) Physical restraint holds shall be administered only by staff trained in the use of physical restraint holds. No child or group of children shall be allowed to participate in the physical restraint of another child.

(h) Before employing a physical restraint, the residential child-care facility shall take into consideration the child's medical condition and any medications the child may be taking.

(i) No child shall be physically restrained utilizing a protective or mechanical device. Physical restraint holds shall:

- (1) not be used for purposes of discipline or convenience;
- (2) only be used when there is imminent risk of harm to the child or others and less restrictive approaches have failed;
- (3) be administered in the least restrictive manner possible to protect the child or others from imminent risk of harm; and
- (4) end when the child becomes calm.

(j) A residential child-care facility shall:

- (1) ensure that any physical restraint hold utilized on a child is administered by a trained staff member with a second trained staff member in attendance. An exception may occur when no other staff member is present or can be called for immediate assistance. Concurrent with the administration of a physical restraint hold and for a minimum of 15 minutes subsequent to the termination of the hold, a staff member shall monitor the child's breathing, ascertain the child is verbally responsive and motorically in control, and ensure the child remains conscious without any complaints of pain.

If at any time during the administration of a physical restraint hold the child complains of being unable to breathe or loses motor control, the staff member administering the physical restraint hold shall immediately terminate the hold or adjust the position to ensure that the child's breathing and motor control are not restricted. If at any time the child appears to be in distress, a staff member shall immediately seek medical attention for the child. Following the use of a physical restraint hold, a staff member shall conduct an interview with the child about the incident, and the staff administering the physical restraint hold shall be interviewed about the incident;

- (2) document each incident of a child being subjected to a physical restraint hold on an incident report. This report shall include the following:

- (A) the child's name, age, height and weight;
- (B) the type of hold utilized;
- (C) the duration of the hold;
- (D) the staff member administering the hold;
- (E) the staff member witnessing the hold;
- (F) the supervisory staff who reviewed the incident report; less restrictive alternatives that were attempted prior to utilizing physical restraint;
- (G) the child's behavior which necessitated the use of physical restraint; whether the child's condition necessitated medical attention;
- (H) planning and debriefing conducted with the child and staff to eliminate or reduce the probability of reoccurrence; and
- (I) the total number of restraints of the child since admission.

Within 72 hours, supervisory staff shall review the incident report to ensure that correct steps were followed and shall forward the report to the parents, guardian or legal custodian and the licensing authority on a report form developed by the licensing authority. If a child dies as a result of a physical restraint hold, the residential child-care facility shall report the death of the child to the parents, guardian or legal custodian and to the licensing authority **within 72 hours**;

- (3) submit a summary report to the licensing authority by the 10th day of each month indicating the number of physical restraint holds used during the previous month on each child and any injuries that resulted;

- (4) ensure that any physical restraint hold utilized on a child is administered by a trained staff member who has completed at least 16 hours of training in behavior management, including techniques for de-escalating problem behavior, the appropriate use of physical restraint holds, monitoring of the child's breathing, verbal responsiveness and motor control. Training shall also include debriefing children and staff involved in physical restraint holds. Thereafter, staff authorized to use physical restraint holds shall annually

complete at least eight hours of behavior management training, including techniques for de-escalating problem behavior. **Instructor qualifications and training requirements shall include:**

- (A) trainers shall demonstrate competence by scoring 100% on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions; trainers shall demonstrate competence by scoring 100% on testing in a training program teaching the use of physical restraint;
 - (B) trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program;
 - (C) the training shall be competency-based, and shall include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course;
 - (D) the content of the instructor training shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and shall include, presentation of understanding the adult learner, methods of teaching content of the course, evaluation of trainee performance and documentation procedures;
 - (E) trainers shall be retrained at least annually and demonstrate competence in the use of physical restraint;
 - (F) trainers shall be currently trained in CPR;
 - (G) trainers shall have coached experience in teaching the use of restrictive interventions at least two times with a positive review by the coach, trainers shall teach a program on the use of physical restraints at least once annually; and
 - (H) trainers shall complete a refresher instructor training at least every two years;
- (5) complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being utilized are being applied properly and safely. This review shall be documented and submitted to the licensing authority as part of the biennial licensing renewal application; and
 - (6) maintain reports of physical restraint holds in a manner consistent with the agency's risk management policies (clinical decisions and activities undertaken to identify, evaluate and reduce the risk of injury to clients, staff and visitors and reduce the risk of loss to the agency) and make them available to the licensing authority upon request.

.0614 – Critical Incidents and Critical Incident Reports

The sections on critical incident reporting in (b) and (d) provide greater specificity regarding the type of incidents that require reports and the timing of the reports. Rules previously found in 10A NCAC 70I.0202 related to reports alleging abuse or neglect are now found in (e). In (e) subcontractors, interns and volunteers were added. (e)(3)(5)(6) and (f) are new. (e)(7) adds a timeline for submission of critical incident reports following the case decision by the Department of Social Services.

10A NCAC 70I.0614 CRITICAL INCIDENTS AND CRITICAL INCIDENT REPORTS

- (a) A residential child-care facility shall have written policies and procedures for handling and reporting critical incidents.
- (b) **Critical incident reports shall be submitted to the licensing authority by the executive director or designee on a form developed by the licensing authority within 72 hours of the critical incident. Critical incidents involving a child who is a resident of a residential child-care facility include the following:**
 - (1) a death of a child;
 - (2) reports of abuse and neglect;
 - (3) admission to a hospital;
 - (4) suicide attempt;
 - (5) runaway lasting more than 24 hours;
 - (6) arrest for violations of state, municipal, county or federal laws; and
 - (7) reports of physical restraint holds.
- (c) Documentation of critical incidents shall include:
 - (1) name of child or children involved;

- (2) date and time of incident;
 - (3) brief description of incident;
 - (4) action taken by staff;
 - (5) need for medical attention;
 - (6) name of staff involved and person completing the report;
 - (7) name of child's parents, guardian or legal custodian notified and date and time of notification; and
 - (8) approval of supervisory or administrative staff reviewing the report.
- (d) When there is a death of a child who is a resident of a residential child-care facility, the executive director or his or her designee shall notify the parents, guardian or legal custodian and the licensing authority **within 72 hours**.
- (e) The residential child-care facility shall have and follow policies and procedures for handling any suspected incidents of abuse or neglect of children involving staff, **subcontractors, volunteers or interns**. The policies and procedures shall include:
- (1) a provision for reporting any suspicions of abuse or neglect to the appropriate county department of social services for an investigative assessment in accordance with G.S. 7B-301;
 - (2) a provision for recording any suspected incident of abuse or neglect and for promptly reporting it to the executive director or governing body;
 - (3) **a provision for notifying the parents, guardian or legal custodian;**
 - (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment.;
 - (5) **a policy concerning personnel action to be taken when the incident involves a staff member, subcontractor, volunteer or intern;**
 - (6) **a provision for submitting a critical incident report to the licensing authority within 72 hours of the incident being accepted for an investigative assessment by a county department of social services; and**
 - (7) **a provision for submitting written notification to the licensing authority within 72 hours of the case decision** by the county department of social services conducting the investigative assessment.
- (f) **Critical incident reports shall be maintained in a manner consistent with the agency's risk management policies and shall be made available to the licensing authority upon request.**

.0615 - Searches

(b)(4) is new.

10A NCAC 70I .0615 SEARCHES

- (a) A residential child-care facility shall have written policies and procedures on conducting searches of children's rooms and possessions which shall be discussed with each child, their parents, guardian or legal custodian prior to or upon admission.
- (b) The search policies and procedures shall include:
- (1) circumstances under which searches are conducted;
 - (2) personnel authorized to conduct searches;
 - (3) provision for documenting searches and informing supervisory personnel of searches; and
 - (4) **provision for removing and disposing of items seized as a result of searches.**

SECTION .0900 PHYSICAL PLANT

Rules concerning Buildings, Grounds and Equipment previously found in Section .0700 are now found in Section .0900 – Physical Plant. Please note that Sections .0901 and .0902 contain basically the same rules as previously found in 10A NCAC .0701 - .0703 and .0705 but they have been rewritten for clarity. Other rules have been moved from one section to another, repeated in several sections or expanded to provide further details concerning the role and regulations of the Department of Health Service Regulation (DHSR). The entire .0900 section should be reviewed carefully. Section .0900 was written by the North Carolina Division of Health Service Regulation, Construction Section.

.0901 – Application of Physical Plant Requirements

No change.

10A NCAC 70I .0901 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

- (a) New construction and existing buildings proposed for use as a residential child-care facility shall comply with the requirements of this Section.
- (b) Except where otherwise specified, existing licensed facilities or portions of existing licensed facilities shall meet licensure and code requirements in effect at the time of construction, initial licensure, change in service, change in resident capacity or evacuation capability of the residents, addition, renovation or alteration.
- (c) New additions, alterations, modifications and repairs made to the building shall meet the requirements of this Section.
- (d) A residential child-care facility shall not have two different types of occupancies, as defined in the State Building Code, in the same building.
- (e) Rules contained in this Section are the Physical Plant requirements and do not prohibit buildings, systems or operational conditions that exceed these requirements.
- (f) Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements shall be approved by the Division of Health Service Regulation when the facility can demonstrate to the Division of Health Service Regulation's satisfaction, that the intent of the physical plant requirements are met and the variation does not reduce the safety or operational effectiveness of the facility.
- (g) The residential child-care facility must comply with all applicable local, state and federal regulations.

.0902 – Design and Construction

(i) is new in rule, but has been a DHSR requirement for new facilities.

10A NCAC 70I .0902 DESIGN AND CONSTRUCTION

- (a) Any building licensed for the first time as a residential child-care facility shall meet the applicable requirements of the North Carolina State Building Code. All new construction, additions and renovations to existing buildings shall meet the requirements of the North Carolina State Building Code for One and Two Family Dwellings, Licensed Residential-Care Facilities or Institutional Occupancy as determined by the Division of Health Service Regulation based on the number and age of the licensed children residents and any other dependents of the live-in staff. The North Carolina State Building Code, which is incorporated by reference, including all subsequent amendments can be purchased for one hundred six dollars and twenty-five cents (\$106.25) at the following web site: (http://www.ncdoi.com/OSFM/Engineering/CodeServices/engineering_codeservices_sales.asp) or calling 919-681-6550.
- (b) Mobile homes, whether mobile or permanently situated, shall not be used for residential child-care facilities.
- (c) Each facility shall be planned, constructed, equipped and maintained to provide the services offered in the facility.
- (d) Any existing building converted from another use to a residential child-care facility shall meet all the requirements of a new facility.
- (e) Any existing licensed residential child-care facility when the license is terminated for more than 60 days shall meet all requirements of a new facility prior to being relicensed.
- (f) Any existing licensed residential child-care facility that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.
- (g) Any existing licensed residential child-care facility that plans to have new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his appointed representative to the Division of Health Service Regulation, Construction Section for review and approval prior to commencement of the work.
- (h) The applicant for a resident child-care facility shall consult the local code enforcement official for information on required permits and building code requirements before starting any construction or renovations.
- (i) If the building is two stories in height and is classified as a Residential Occupancy, it shall meet the following requirements:
 - (1) Children less than six years old shall not be housed on any floor other than the level of exit discharge with adult supervision.
 - (2) A complete fire alarm system with pull stations on each floor and sounding devices which are audible throughout the building shall be provided. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection.

- (j) The basement and the attic shall not to be used for storage or sleeping.
- (k) The ceiling shall be at least seven and one-half feet from the floor.
- (l) All windows shall be maintained operable.
- (m) The sanitation, water supply, sewage disposal and dietary facilities shall comply with the rules of the North Carolina Commission for Public Health, which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions", 15A NCAC 18A .1300 and the "Rules Governing Sanitation of Residential Care Facilities" 15A NCAC 18A .1600 are available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632 at no cost.
- (n) The residential child-care facility shall request and obtain current inspections from the local sanitarian and the local fire inspector. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority with the licensure renewal application.

.0903 – Location

.0904 – Living Arrangement

These sections are new.

10A NCAC 70I .0903 LOCATION

- (a) A residential child-care facility shall be in a location approved by local zoning boards.
- (b) The facility shall be located so that hazards to the residents are minimized.
- (c) The site of the facility shall:
 - (1) be accessible by streets, roads and highways and be maintained for motor vehicles and emergency vehicle access;
 - (2) be accessible to fire fighting and other emergency services;
 - (3) have a water supply, sewage disposal system, garbage disposal system and trash disposal system approved by the local health department having jurisdiction;
 - (4) meet all local ordinances; and
 - (5) be free from exposure to pollutants known to the applicant or licensee.

10A NCAC 70I .0904 LIVING ARRANGEMENT

A residential child-care facility shall provide living arrangements to meet the individual needs of the residents, the live-in staff and other live-in persons. There shall be a designated room for residents to talk privately with staff and to receive visitors.

.0905 – Living/Activity Areas

.0906 – Dining Areas

.0907 – Kitchen

.0908 – Laundry Room

Sections .0905, .0906 and .0907 give additional details concerning square footage, windows and lighting. Section .0907 (b) and location requirements in .0908 are new.

10A NCAC 70I .0905 LIVING/ACTIVITY AREAS

- (a) Residential child-care facilities shall have a living room area of a minimum of 200 square feet for a capacity of six or less and 15 square feet per each additional resident.
- (b) All living rooms shall have operable windows to meet the North Carolina State Building Code and be lighted to provide 30 foot candles of light at floor level.
- (c) The living and activity areas shall be accessible from an outside entrance without going through sleeping, food services or food preparation areas.

10A NCAC 70I .0906 DINING AREAS

- (a) Residential child-care facilities shall have a minimum dining area of 120 square feet for a capacity of six or less and 14 square feet for each additional resident (including children of live-in-staff).
- (b) When the dining area is used in combination with a kitchen, an area five feet wide shall be allowed as work space in front of the kitchen work areas and shall not be included in the required square footage.
- (c) Each dining room shall be provided with operable windows and be lighted to provide 30 foot candles of light at the floor level.

10A NCAC 70I .0907 KITCHEN

- (a) The kitchen in a residential child-care facility shall be large enough to provide for the preparation and preservation of food and the washing of dishes.
- (b) The kitchen floor shall have a non-slippery, water-resistant covering.
- (c) The kitchen shall be approved by the local sanitarian for the total number of children as well as any live-in staff and their dependents.

10A NCAC 70I .0908 LAUNDRY ROOM

Laundry facilities shall be provided. The laundry equipment shall be located out of the living, dining and bedroom areas.

.0909 – Sleeping Areas

(c)(d)(e) are new in rule but have been requirements of DHSR. (g) now includes children of staff. (i) changes the previous rule concerning children of different sexes sharing a bedroom from only children under 5 to only allow siblings to share a bedroom. (k) has additional requirements for bunk beds including guardrails, space between rails and footboards/headboards, and secured ladders. (p) states additional requirements for bedroom windows.

10A NCAC 70I .0909 SLEEPING AREAS

- (a) Bedrooms in existing facilities licensed before October 31, 1977 shall provide a minimum of 60 square feet of floor space for each child in multi-occupancy bedrooms and a minimum of 80 square feet of floor space in single-occupancy bedrooms. Floor area does not include closets or wardrobes.
- (b) Bedrooms in facilities licensed or developed after October 31, 1977 shall provide a minimum of 80 square feet of floor space for each child in multi-occupancy bedrooms and a minimum of 100 square feet of floor space in single-occupancy bedrooms. Floor area does not include closets or wardrobes.
- (c) There shall be bedrooms sufficient in number and size to meet the individual needs of residential child-care facility residents, the live-in staff and their dependents.
- (d) Only rooms authorized by the Division of Health Service Regulation as bedrooms by plan review or field inspection shall be used for bedrooms.
- (e) The total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation by plan review or field inspection for that particular bedroom.
- (f) A room where access is through a bathroom, kitchen or other bedroom shall not be approved for a resident's bedroom.
- (g) No child shall share a bedroom with a live-in staff member or children of staff.
- (h) No bedroom shall house more than four children.
- (i) Except for siblings, children of different sexes shall not share a bedroom.
- (j) Each child shall have a bed of his or her own.
- (k) Bunk beds shall be limited to no more than one bed above the other bed with at least three feet vertical clearance between the lower and upper beds. Bunk beds shall have guardrails on both sides of the top bunk. All spaces between the guardrails and bed frame and in the head and foot boards on the top bunk shall be less than 3 ½ inches. Bunk beds shall be provided with secured ladders.
- (l) Individual beds shall be at least three feet apart at the head, foot and sides; bunk beds shall be at least five feet apart, horizontally, at the head, foot and sides.
- (m) Each bed shall be provided with a mattress in good repair.
- (n) No day-bed, convertible sofa or other bedding of a temporary nature shall be used as a bed.
- (o) Bedrooms shall be provided with a minimum of 48 cubic feet of closet or wardrobe space per child and four cubic feet of drawer space per child.
- (p) Each bedroom shall be provided with a window that meets the North Carolina State Building Code for emergency egress. These windows shall be openable without the use of keys or tools.

.0910 – Bathing and Toilet Areas

(a) includes a change from 6 to 5 persons and (b)(e)(f) are new.

10A NCAC 70I .0910 BATHING AND TOILET AREAS

- (a) Facilities licensed for the first time after the effective date of Subchapters 70I and 70J shall have one full bathroom for each five or fewer persons including live-in staff and family. For children under five years old a tub shall be provided. Live-in staff and their dependents shall have a separate bathroom from children in care.

- (b) The bathrooms shall be designed to provide privacy. A bathroom with two or more water closets (commodes) shall have privacy partitions for each water closet. Each tub or shower shall have privacy partitions or curtains.
- (c) Bathrooms shall be located as conveniently as possible to the children's bedrooms.
- (d) The entrance to a bathroom shall not be through a kitchen, another resident's bedroom or bathroom.
- (e) The bathrooms shall be lighted to provide 30 foot candles of light at the floor level and have mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area. These vents shall be vented directly to the outdoors.
- (f) The bathroom floor shall have a non-slippery water-resistant covering.

.0911 – Corridors

.0912 – Outside Entrances and Exits

Sections .0911 (a), and .0912 (a)(b)(c)(f) are new in rule but have been requirements of DHSR.

10A NCAC 70I .0911 CORRIDORS

- (a) Corridors shall be a minimum clear width of three feet.
- (b) Corridors shall be lighted with night lights providing one foot-candle of light at the floor.
- (c) Corridors shall be free of all equipment and other obstructions.

10A NCAC 70I .0912 OUTSIDE ENTRANCES AND EXITS

- (a) In residential child-care facilities, all floor levels shall have at least two exits. If there are only two, the exit or exit access doors shall be located and constructed to minimize the possibility that both may be blocked by any one fire or other emergency condition.
- (b) At least one entrance and exit door shall be a minimum width of three feet and another shall be a minimum width of two feet and eight inches.
- (c) If the residential child-care facility has any child that requires physical assistance with evacuation, the facility shall have at least one principal outside entrance and exit for the residents' use which shall be at grade level or accessible by ramp with a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance and exit is one that is most often used by residents for vehicular access.
- (d) All exits and room door locks and latches shall be easily operable from the inside at all times without keys.
- (e) All entrances and exits shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.
- (f) All steps, porches, stoops and ramps shall be provided with handrails and guardrails.
- (g) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.

.0913 – Floors

.0914 – Housekeeping and Furnishings

Sections .0913 (a) and all of .0914 except (a)(9) are new. Note that .0914 (e) affirms that all of the housekeeping and furnishing requirements in .0914 apply to new and existing facilities.

10A NCAC 70I .0913 FLOORS

- (a) All floors shall be of smooth, non-skid material and constructed to be easily cleanable.
- (b) All floors shall be kept in good repair.

10A NCAC 70I .0914 HOUSEKEEPING AND FURNISHINGS

- (a) Each residential child-care facility shall:
 - (1) have walls, ceilings and floors or floor coverings kept clean and in good repair;
 - (2) have no chronic unpleasant odors;
 - (3) have furniture clean and in good repair;
 - (4) be maintained in an uncluttered, clean and orderly manner, free of all obstructions and hazards;
 - (5) have a supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets and additional coverings adequate for resident use on hand at all times;
 - (6) have television and radio, each in working order;

- (7) have curtains, draperies or blinds at windows in resident use areas to provide for resident privacy;
 - (8) have recreational equipment, supplies for games, books, magazines and a current newspaper available for residents; and
 - (9) have at least one non-pay telephone available at all times that does not depend on electricity or cellular service to operate. Emergency telephone numbers shall be posted at the telephone.
- (b) Each bedroom shall have the following furnishings in good repair and clean for each child:
- (1) a bed equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. Each bed shall include:
 - (A) at least one pillow with clean pillow case;
 - (B) clean top and bottom sheets on the bed, with bed changed as often as necessary but at least once a week; and
 - (C) clean bedspread and other clean coverings as needed.
 - (2) a bedside type table and lamp or overhead light, that provides a minimum of 30 foot-candle power of illumination for reading.
 - (3) a chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents.
 - (4) a wall or dresser mirror that can be used by each resident.
 - (5) a minimum of one comfortable chair.
- (c) The living room shall have functional living room furnishings for the comfort of residents, with coverings that are easily cleanable.
- (d) The dining room shall include:
- (1) tables and chairs to seat all residents eating in the dining room; and
 - (2) high chairs and booster seats for infants and children who need them.
- (e) This Rule shall apply to new and existing facilities.

.0915 – Fire Safety and Disaster Plan

(c)(j)(k) are new. (j) clarifies that the rule in (j) does not apply to existing licensed facilities that have had no additions or renovations.

10A NCAC 70I .0915 FIRE SAFETY AND DISASTER PLAN

- (a) Care shall be exercised by the staff of a residential child-care facility in allowing children to use matches or to handle combustible materials.
- (b) A written fire evacuation plan (including a diagrammed drawing) that has the approval of the local code enforcement official shall be prepared with a minimum of 1/8 inch high letters and posted in a central location on each floor of the building.
- (c) A written disaster plan shall be prepared and updated at least annually and shall be maintained in the facility.
- (d) Fire drills shall be held monthly at different times during the day and quarterly at night for both children and staff. A residential child-care facility shall document fire drills including the date and time of the rehearsals, staff members present and a short description of what the rehearsal involved.
- (e) The executive director of a residential child-care facility, or his/her designee, shall instruct staff and children residing in a residential child-care facility and shall train the staff and children in the proper reporting of a fire and the ways of escaping from a fire. New residents shall be instructed within the first day upon admittance.
- (f) Fire extinguishers shall be provided in a residential child-care facility that meets the following minimum requirements:
 - (1) one five pound or larger (net charge) "A-B-C" type centrally located.
 - (2) one-five pound or larger "A-B-C" or "CO/2" type located in the kitchen.
 - (3) any other location as determined by the code enforcement official.
- (g) When there are seven or more children residing in the residential child-care facility, and it is classified as a residential occupancy by the Division of Health Service Regulation, each floor level shall be separated from other floors in accordance with the requirements of the applicable building code, and by not less than walls and a solid core, self-closing, 20 minute fire-rated door.
- (h) Fire exits and all exit-access paths including doors, hallways and stairs shall be well lighted and kept clear of obstructions.
- (i) The building shall be provided with the smoke detectors as required by the North Carolina State Building Code in effect at the time of initial licensing or renovations.

- (j) Heat detectors shall be located in the attic and connected to a dedicated sounding device. This Paragraph shall not apply to existing licensed facilities that have had no additions or renovations.
- (k) Smoking is not permitted in a residential child-care facility.
- (l) Any fire safety requirements required by city ordinances or county building inspectors shall be met.
- (m) This Rule shall apply to new and existing licensed facilities except where otherwise specified.

.0916 – Building Service Equipment

(b) temperature requirements for heat changed from 65 to 75 degrees. (c) temperature requirements for air conditioning changed from 85 to 80 degrees. Information regarding heaters in (b) is new and sections (e)(f)(g) are new.

10A NCAC 70I .0916 BUILDING SERVICE EQUIPMENT

- (a) The building and all fire safety, electrical, mechanical and plumbing equipment in a residential child-care facility shall be maintained in a safe and operating condition.
- (b) There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. Built-in electric heaters, if used, shall be installed or protected to avoid hazards to the children and room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.
- (c) Air conditioning or at least one fan per resident bedroom, living and dining areas shall be provided when the temperature in the facility exceeds 80 degrees F (26.7 degrees C).
- (d) The hot water tank shall provide hot water to the kitchen, bathrooms and laundry. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).
- (e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required is:
 - (1) 30 foot-candle of light for reading; and
 - (2) 10 foot-candle of light for general lighting.
- (f) Fireplaces, fireplace inserts and wood stoves shall be designed or installed to avoid a burn hazard to children. Solid fuel burning fireplace inserts and wood stoves shall be labeled and approved by a third party testing agency accredited by the North Carolina Building Code Council for solid fuel heating equipment.
- (g) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved through the local building department and protected by a guard or screen to prevent children and furnishings from burns.
- (h) This Rule shall apply to new and existing licensed facilities.

.0917 – Outside Premises

Additional details for clarification have been added to (f).

10A NCAC 70I .0917 OUTSIDE PREMISES

- (a) Outdoor recreational space shall be provided and maintained in a clean and safe condition.
- (b) The grounds and all structures on the grounds of the residential child-care facility shall be maintained to minimize hazards to the health or safety of the children.
- (c) Play and recreational equipment shall be located, installed and maintained to ensure the safety of children.
- (d) Garbage and rubbish that is stored outside shall be stored securely in covered containers and shall be removed on a regular basis.
- (e) Trash collection receptacles and incinerators shall be kept separate from play areas and must be located to avoid being a nuisance to neighbors.
- (f) Fences shall be kept in good repair and shall not prevent adult staff from exiting or entering freely or be hazardous.
- (g) Areas determined by the Division of Health Service Regulation to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, and high-speed roads, shall be fenced off or have natural barriers to protect children.

.0918 – Vehicles Used For Transportation of Children

Additional details for clarification have been added to (f).

10A NCAC 70I .0918 VEHICLES USED FOR TRANSPORTATION OF CHILDREN

- (a) Vehicle Requirements for Transporting Children.

- (1) Vehicles shall comply with all motor vehicle laws and regulations for the State of North Carolina.
 - (2) Motor vehicles shall be maintained in a safe operating condition, shall be properly registered, and shall have current, valid inspection stickers for the State of North Carolina.
 - (3) A first-aid kit shall be in all motor vehicles.
 - (4) The bed of an open body or a stake bed vehicle shall not be used for transporting children.
- (b) Driver Requirements. The name of and a copy of a valid driver's license for each person transporting children shall be maintained in a separate file at the facility.
- (c) Safety Practices for Transporting Children.
- (1) The interior of each vehicle shall be maintained in a clean and safe condition with clear passage to operable doors.
 - (2) The driver shall assure that all passengers follow North Carolina laws regarding seat belt usage and shall adhere to child passenger restraint laws when transporting children.
 - (3) The driver shall not transport more persons, including children and adults, than allowed by the design capacity of the vehicle.
 - (4) Children shall have at least one 30 minute rest stop for every four hours of continuous travel.
 - (5) Children shall not be transported for more than 10 hours in any 24-hour period.
- (d) Transportation Records. Insurance verification and the vehicle identification certificate shall be kept in the vehicle in accordance with State law. Emergency medical information shall be kept in the vehicle for each child occupying the vehicle.
- (e) Insurance. If a residential child-care facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility shall maintain a file copy of the individual's or firm's insurance coverage.
- (f) Emergency Transportation. A residential child-care facility shall have a plan for transporting children when emergency situations arise that includes:
- (1) the need for immediate medical care;
 - (2) picking a child up at school before the end of the school day; and
 - (3) transporting the child during adverse weather conditions.

NOTE

Please note that the licensing authority is currently working to amend rule 10A NCAC 70I.0404 (a) to include the following:

Applicants, employees, volunteers or interns are not eligible for employment if they have been convicted of a felony involving child abuse or neglect, spouse abuse, a crime against a child or children (including child pornography) or a crime involving violence including rape, sexual assault, or homicide but not including other physical assault or battery. Applicants, employees, volunteers or interns are not eligible for employment if within the last five years they have been convicted of a felony involving physical assault, battery or drug-related offences.

These stipulations are required by IV-E and counties will not be able to place children in facilities that do not have these requirements/exclusions in policy. Agencies will need to update your personnel policies and indicate in your policy that the agency will not employ persons that have these convictions in their criminal history to prevent disruptions in placement or admissions to your facility.